

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
Case No. 3:18-cv-95**

**RAYMOND BENITEZ,**  
individually and on behalf of all others  
similarly situated,

Plaintiff,

v.

**THE CHARLOTTE MECKLENBURG  
HOSPITAL AUTHORITY, d/b/a  
CAROLINAS HEALTHCARE SYSTEM,  
ATRIUM HEALTH**

Defendant.

**DEFENDANT'S  
MOTION TO SEAL  
EXHIBITS 1 AND 5 TO ITS ANSWER**

Defendant, The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas HealthCare System and Atrium Health, (the “Hospital Authority”) pursuant to Local Rule 6.1, moves the Court to seal Exhibits 1 and 5 to Defendant’s Answer. As grounds for this motion, which are set forth more fully in the memorandum of law filed contemporaneously herewith, the Hospital Authority states as follows:

1. In support of its Answer, the Hospital Authority has provisionally filed two exhibits under seal pending the Court’s resolution of this motion: (1) Plaintiffs medical billing records for treatment he received from the Hospital Authority (attached to the Answer as Exhibit 1); and (2) the Network Participation Agreement between the Hospital Authority and Blue Cross Blue Shield of North Carolina from 2014 (the “BCBS-NC Agreement”) (attached to the Answer as Exhibit 5).

2. Plaintiff's billing records contain confidential medical information that is protected from disclosure by statute under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

3. The BCBS-NC Agreement contains confidential, commercially sensitive terms regarding the reimbursement rates BCBS-NC has agreed to pay the Hospital Authority for patient services, as well as other non-price provisions, that are the result of extensive negotiations between the parties. The disclosure of these terms—which the parties have agreed to keep confidential—would provide commercial intelligence to BCBS-NC's and the Hospital Authority's competitors and undermine their ability to negotiate similar agreements with other parties in the marketplace. Such information accordingly is deemed "competitive health care information" under North Carolina law thus protected from disclosure. *See* N.C. Gen. Stat. § 131E-97.3

4. The interest in maintaining the confidentiality of Plaintiff's private medical information contained in his billing records and the terms of the BCBS-NC Agreement outweigh any countervailing interest in favor of public access.

5. The Hospital Authority requests that these documents be permanently sealed in their entirety.

6. There are no practical or less drastic alternatives to filing these documents under seal.

7. Counsel for the Hospital Authority has consulted with counsel for the Plaintiff concerning this Motion. The Plaintiff has no objection to the Motion to Seal with respect to the Plaintiff's billing records and has requested that these records be designated as "Confidential." The Plaintiff has been unable to review the Agreement contained in Exhibit 5 because of its

designation as "Highly Confidential" in pending litigation, and thus is unable to take a position at this time as to the propriety of the Motion as to this Exhibit. The Plaintiff and the Defendant have entered into a Stipulation that will permit the Plaintiff to receive a copy of this Agreement so that he may communicate his position to the Court.

WHEREFORE, The Hospital Authority respectfully requests that the Court grant their motion for leave to file under seal.

This 30<sup>th</sup> day of April 2018.

/s/ James P. Cooney

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 30<sup>th</sup> day of April, 2018, the foregoing was served via the Court's CM/ECF system to all parties registered to receive such notice including:

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